

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TRENNA BOURZIKIS,

Plaintiff,

vs.

TECHNISOURCE, INC.,

Defendant.

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Case No. 4:05CV2286SNL

ORDER

Plaintiff originally filed this declaratory judgment action in the Circuit Court for the City of St. Louis. On or about December 7, 2005 defendant removed this cause of action to federal court on the grounds of diversity jurisdiction; wherein it was assigned to this Court. This matter is before the Court on the plaintiff's motion to strike and for interlocutory order of default (#12), filed December 19, 2005. Defendant has filed a responsive pleading.

Plaintiff argues that the defendant's filing of its answer, counterclaim, and motion for a temporary restraining order (TRO) on December 14, 2005 was untimely. She contends that defendant was served with the subject complaint on or about November 7, 2005. She further contends that under the Missouri Rules of Civil Procedure, defendant's responsive pleadings were due within thirty (30) days; i.e. on or before December 7, 2005. She further contends that on December 14, 2005 defendant filed its notice of removal but failed to file any responsive pleadings, nor did defendant seek an extension of time under Rule 6(b)(1) Federal Rules of Civil Procedure. Finally, she avers that defendant filed its responsive pleadings on December 14, 2005 without leave of Court to file out-of-time.

Defendant counters that the responsive pleadings were timely filed pursuant to Rules 81(c) Fed.R.Civ.P. and 6(a) Fed.R.Civ.P.

Upon review of the pleadings, and the applicable rules, the Court concurs with the defendant. Rule 81(c) specifically provides that if the removing defendant has not filed responsive pleadings at the time of removal, the removing defendant may file such pleadings “within 5 days after the filing of the petition for removal . . .”. Rule 6(a) provides for the computation of such response time, and this Court finds that the responsive pleadings filed on December 14, 2005 were timely pursuant to Rules 81(c) and 6(a) Fed.R.Civ.P.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to strike and for interlocutory order of default (#12) be and is **DENIED**.

Dated this 3rd day of January, 2006.

A handwritten signature in dark ink, appearing to read "Stephen L. Limbaugh", is written over a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE